

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Private Aided Colleges – Payment of Rs.3,12,428/- towards the arrears payable to Sri M.Madhusudan Reddy, (Retired) Lecturer in Zoology, V.R.(Day) College, Nellore for the period after 1.4.1980 to till the date of retirement i.e. 30.6.2003 – Orders – Issued.

HIGHER EDUCATION (CE.II-1) DEPARTMENT

G.O.Rt.No. 636

Dated: 29 .8.2009.

Read the following:

1. G.O.Ms.No.148 Education, dated 13-10-2005.
2. Lr.C.C.No.392/06/GRB/HE/CE/TE/IE, dt.15-7-2009 of the G.P. for Higher Education, High Court of A.P., Hyderabad.
3. From the C.C.E., A.P., Hyderabad, Lr.Rc.No.2779/Admn.IV-2/96, dated 8-4-2009.
4. Memo.No.3566/CE.II-1/09 Edn.,dt.19.6.2009.
5. From the C.C.E., A.P., Hyderabad, Lr.Rc.No.2779/Admn.IV-2/96, dated 8-7-2009.
6. Judgment dated 24-7-2009 of the Hon'ble High Court in C.C.No.392 of 2006.
7. From the C.C.E., A.P., Hyd., Lr.Rc.No.2779/Admn.IV-2/1996, dated 8-7-2009 and 22-8-2009.

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ORDER:

In the reference 1st read above, Government have issued orders that the un-aided service rendered by Sri M. Madhusudan Reddy, Lecturer in Zoology, V.R. (Day) College, Nellore in between 1972-73 to 31.3.1980 shall be treated as aided service for the purpose of pensionary benefits; subject to the condition that the individual will not be entitled to any arrears of salary.

2. The Government Pleader, for Higher Education, High Court of A.P., Hyderabad in his letter 2nd read above has stated that the petitioner Sri Madhusudhan Reddy has filed a reply to the counter in C.C.No.392 of 2006 filed by the Commissioner of Collegiate Education, A.P., Hyderabad, stating that the contemnors are deliberating mis-interpreting the orders of the Hon'ble Supreme Court wherein it was held that the respondent is not entitled the arrears of the salary for the crucial period due to him after 1980 are concerned on re-fixation of his salary, he entitled to the same and as such, the contemnors have yet to pay the same. Agreeing with the contention made by the petitioner the Hon'ble High Court has directed the presence of the contemnor i.e., then Commissioner Sri K. Lakshminarayana on 30-3-2009. The Hon'ble Court is of the opinion that the crucial period referred in the order of the Hon'ble Supreme Court is for 72-80 only. Therefore he has requested him to go through the judgment of the Hon'ble Supreme Court and if the contention of the petitioner is found to be correct then he has to be paid the arrears of salary which are due to him on re-fixation of his pay for the period after 1980 till his retirement.

3. The Commissioner of Collegiate Education, A.P., Hyderabad in his letter 3rd read above, while explaining the circumstances of the case has requested the Government to pass suitable orders in the matter. Accordingly, in the memo. Fourth read above, the CCE has been clarified that Since the Hon'ble Supreme Court made it clear that the respondents are not entitled to any arrears of salary, the service rendered by Sri M.Madhusudan Reddy, Lecturer between 1972 to 31-3-1980 shall be treated as aided service for the purpose of pensionary benefits but he will not be entitled to any arrears of salary due to him after 1980. As such, no pay fixation arrears need be paid and requested him to take necessary action by filing counter affidavit in the above case in consultation with G.P., for Higher Education, High Court of A.P., Hyderabad

4. The Hon'ble High Court in it's judgment dt.24.7.2009 in CC No.392/2006 sixth read above while closing the contempt case held that-

"The order dt.13.6.2003 passed by the court in WP No.20856/06 has been confirmed by Division Bench in its judgment dt.19.11/2003 in W.A.No.1988/03 and Supreme Court by orders dt.8.4.2005 in S.L.P.(Civil) No.17400/04 has also been confirmed the said judgments of the Division Bench of the court.

P.T.O.

The salary that was paid to the petitioner between the period 1972 to 1980 which was the crucial period need not to be paid as per the said orders of the court. **However it is clarified that for the subsequent periods i.e., from the years 1980 till the date of retirement i.e, 30.6.2003 the arrears of salary have ought to be paid to the petitioner there is absolutely ambiguity whatsoever in the order dated 16.3.2009 passed by the Division bench of the court.**

It is rather indiscernible as to why the respondents are not able to comply with the said order of this Court. In fact, on the last occasion, the Division Bench of this Court has directed the presence of respondent No.1 i.e. Commissioner of Collegiate Education, A.P., Hyderabad, but his presence was dispensed with on account of his involvement in the election duties.

I am of the considered view that the lenient view taken by this Court shall not be understood as a valid reason for non-compliance and that postponement of compliance for an unlimited period is absolutely not justifiable for the respondents.

Accordingly, the respondents are directed to comply with the order dated 13.6.2003 passed in W.P.No.20856/96 as indicated above on or before 24.8.2009 in default the respondent No.1 (Sri K.Lakshminarayana) **the Commissioner of Collegiate Education, Hyderabad shall appear before the court at 10.30 A.M. on 31.8.2009 and explain the reasons for non-compliance of the orders of the court” .**

5. The Commissioner of Collegiate Education, A.P., Hyderabad in his letter seventh read above has requested the Government to accord permission for payment of Rs.3,12,427.60 towards the arrears payable to Sri M.Madhusudan Reddy, (Retired) Lecturer in Zoology, V.R.(Day) College, Nellore as per his eligibility for the period after 14.1980 till the date of retirement i.e, 30.6.2003 in terms of the judgment of Hon'ble High Court dt.24.7.2009 in C.C.No.392 of 2006 and issue orders in the matter to avoid further legal complications.

6. In the circumstances stated above, and after careful examination of the matter, the Government hereby accord permission to the Commissioner of Collegiate Education, A.P., Hyderabad for payment of Rs.3,12,428/- (Rupees three lakhs twelve thousand four hundred and twenty towards the arrears payable to Sri M.Madhusudan Reddy, (Retired) Lecturer in Zoology, V.R.(Day) College, Nellore as per his eligibility for the period after 14.1980 till the date of retirement i.e, 30.6.2003, subject to the condition that the Commissioner of Collegiate Education, A.P., Hyderabad shall satisfy himself with the calculations of arrears payable.

7. The Commissioner of Collegiate Education, A.P., Hyderabad shall take action accordingly.

8. This order issues with the concurrence of Finance (Expr.HE) Department vide their U.O.No.424/Expr.HE/09, dt.28.8.2009.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

SURESH CHANDA,
SECRETARY TO GOVERNMENT (FAC)

To
The Commissioner of Collegiate Education, A.P., Hyderabad.
The Government Pleader for Higher Education, High Court of A.P, Hyderabad.
Copy to:
The Accountant General (A&E), A.P, Hyderabad.
The Finance (Expr.HE) Department.
SF/SCs.

// FORWARDED :: BY ORDER //

SECTION OFFICER.